

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102
Telephone (973) 648-4735
Attorney for Board of Dentistry

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 5-2-07 MA

By: Nancy Costello Miller
Deputy Attorney General

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE
SURRENDER OF THE LICENSE OF

JOSEPH VOGLER, D.M.D.
License # 22DI 01524900

TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

Administrative Action

**CONSENT ORDER OF
VOLUNTARY SURRENDER
OF LICENSURE**

This matter was opened to the State Board of Dentistry upon receipt of information that Joseph Vogler, D.M.D. ("respondent"), had obtained prescription medication, including controlled dangerous substances, for personal use on more than one occasion. Respondent has now enrolled in the New Jersey Professional Assistance Program (PAP) and entered into an intensive out-patient program in April, 2007.

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 46029
Newark, New Jersey 07102
Telephone (973) 848-4735
Attorney for Board of Dentistry

By: **Nancy Costello Miller**
Deputy Attorney General

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE
SURRENDER OF THE LICENSE OF

JOSEPH VOLGER, D.M.D.
License # 22DI 01624900

TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER OF
VOLUNTARY SURRENDER
OF LICENSURE

This matter was opened to the State Board of Dentistry upon receipt of information that Joseph Volger, D.M.D. ("respondent"), had obtained prescription medication, including controlled dangerous substances, for personal use on more than one occasion. Respondent has now enrolled in the New Jersey Professional Assistance Program (PAP) and entered into an intensive out-patient program in April, 2007.

Respondent has agreed to cease practicing dentistry in this State, and will relinquish his biennial registration, CDS registration, DEA registration, and prescription pads bearing his name by mail or delivery method to the Board or its designee or to investigators from the Enforcement Bureau, Division of Consumer Affairs. Respondent has agreed to voluntarily surrender his license to practice dentistry in the State of New Jersey and in accordance with the terms of this Order. The Board finds the terms of this consent order to be adequately protective of the public health, safety and welfare.

IT IS, therefore, on this 2nd day of May, 2007,

AGREED AND ORDERED THAT:

1. Joseph Vogler, D.M.D., shall immediately surrender his license and cease to practice dentistry in the State of New Jersey for a minimum period of six months effective from the entry of this order. At the earliest opportunity, but in no event later than 14 days from the entry of this order, respondent shall relinquish or cause to be relinquished all registrations related to the practice of dentistry (biennial registration, CDS and DEA registrations) and all prescription pads bearing his name to the Board or its designee.

2. Respondent shall comply with the attached directives for dentists whose surrender of licensure has been accepted by the Board, which are incorporated here by reference.

3. Pending further order of the Board, respondent shall participate with the Professional Assistance Program and shall comply with the recommendations for treatment, including but not limited to monthly face to face contact with representatives from that program, attendance at support groups, including NA or AA, urine monitoring, and psychotherapy, all as directed by the PAP. If respondent discontinues participation

with the Professional Assistance Program or fails to comply with the conditions imposed by the program or outlined in this consent order, he shall be deemed in violation of this Order.

4. Respondent shall abstain from the use of all psychoactive substances, including alcohol, unless prescribed by a treating physician for a documented medical condition with prior notification to the Executive Medical Director of the Professional Assistance Program of the diagnosis and prescribed medications. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of substance abuse.

5. The Professional Assistance Program shall submit monthly reports, including urine results, to the Board regarding respondent's participation and compliance with all requirements of the PAP and this order. If respondent has a positive urine, misses an appointment without consent, or has a lapse or slip in his recovery, or if respondent terminates recommended treatment or his participation with the PAP, the PAP shall immediately inform the Board. For purposes of this paragraph, "immediately" shall mean reporting the information orally within 24 hours and following up with a written report within 48 hours.

6. (a) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the Professional Assistance Program. Respondent shall notify the

Professional Assistance Program if he will be out of the State for any reason, so that the program may make a determination regarding alternate testing.

(b) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall create a rebuttable presumption of a confirmed positive urine test. Any such result shall be followed immediately by a confirming GC/MS test.

(c) Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

(d) The Professional Assistance Program may, after notifying the Board, modify the frequency of testing or method of testing during the monitoring period.

7. Respondent shall provide any and all releases to any and all parties who are participating in a monitoring, treatment, or other program as outlined in this order, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. Respondent agrees that any information received by the Board regarding respondent's treatment or participation in a monitoring program may be used in connection with any proceedings pertaining to his license. Pending further order of the Board, respondent shall continue his participation with the Professional Assistance Program and shall comply with all recommendations for treatment and monitoring. Respondent, at a minimum, shall have face-to-face contact with representatives from that program, shall attend support groups, including NA or AA, and shall submit to urine monitoring as set forth in this order. If respondent discontinues

participation with the Professional Assistance Program, psychotherapeutic counseling or attendance at any support group without obtaining approval of the Professional Assistance Program, he shall be deemed in violation of this Order.

8. Nothing in this order shall be deemed to preclude the Board from taking any action, including disciplinary action, it deems appropriate should the Board's review of information cause it to determine that such action is warranted.

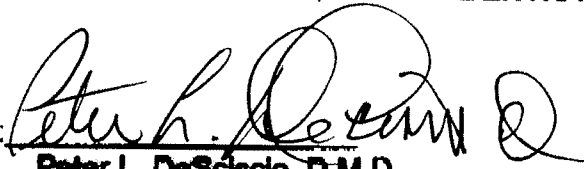
9. Prior to any restoration of his license, respondent shall:

- a. Affirmatively demonstrate a minimum of six months of sobriety;**
- b. Appear before the Board or a committee of the Board to discuss his readiness to reenter the practice of dentistry. At that time respondent shall be prepared to propose his plans for future practice in New Jersey;**
- c. Provide the Board with evidence that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare and that he is not then suffering from any impairment or limitation resulting from the use of any CDS or other substance, whether legal or illegal, which could affect his practice;**
- d. Provide the Board with reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who have participated in respondent's care and/or treatment in this matter during the period of time from his entry into treatment until his appearance;**
- e. Provide the Board with a report from the Professional Assistance Program detailing the nature and extent of his involvement with that entity and recommending reinstatement of his license;**

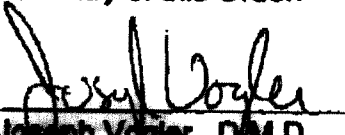
f. Provide the Board with a full account of his conduct during the intervening period of time from his entry into treatment to his appearance pursuant to this Order.

10. Entry of this Order is without prejudice to further action by this Board or other law enforcement entities resulting from respondent's conduct.

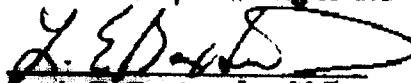
NEW JERSEY STATE BOARD OF DENTISTRY

By: 
 Peter L. DeSclisio, D.M.D.
 President

I have read and I understand the terms of this order and agree to be bound by it. I consent to the entry of this Order.


 Joseph Vogler, D.M.D.
 4/25/07
 Date

I have read the terms of this order and agree on behalf of the Professional Assistance Program to comply with its terms as pertaining to the PAP.


 Louis E. Baxter, Sr., M.D.
 Executive Medical Director
 Professional Assistance Program

4/30/07
 Date

**DIRECTIVES APPLICABLE TO ANY DENTISTRY BOARD LICENSEE
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board, shall conduct him/herself as follows:

1. Document Return and Agency Notification

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate, and if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances Registration. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of dentistry in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry. The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories,

professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted.

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). Such divestiture shall occur within 90 days following the disqualification to own shares in the corporation. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement

Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Dentistry are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a dentist:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the American Association of Dental Examiners, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.